

LEAH C. LIVELY, OSB #962414
leahlively@dwt.com
SARAH E. AMES, OSB #132675
sarahames@dwt.com
DAVIS WRIGHT TREMAINE LLP
1300 S.W. Fifth Avenue, Suite 2400
Portland, Oregon 97201-5610
Telephone: (503) 241-2300
Facsimile: (503) 778-5299

Attorneys for Defendant
Wells Fargo Bank, N.A.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

AT PORTLAND

DUKE TRAN,
Plaintiff,
v.
WELLS FARGO BANK, N.A.,
Defendant.

Case No. 3:15-cv-00979-BR

**EXHIBIT 3, PART 1 TO THE
DECLARATION OF LEAH C. LIVELY**

DAVIS WRIGHT TREMAINE LLP

By S/ Leah C. Lively
Leah C. Lively, OSB # 962414
leahlively@dwt.com
Sarah E. Ames, OSB #132675
sarahames@dwt.com
Attorneys for Defendant Wells Fargo Bank, N.A.

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1 Q. Okay. Has that ever influenced your
2 ability to work as a telephone customer service
3 agent?

4 A. No.

5 Q. Has anyone ever told you that they have a
6 hard time understanding you because of your accent?

7 A. Yes, it's possible.

8 Q. Okay. Outside of the workplace, has
9 anyone ever said that to you?

10 A. The customer on the phone.

11 Q. Okay.

12 A. Yes.

13 Q. Is that something that's happened just
14 occasionally, or is it -- is that something that
15 happens more than five times a year?

16 A. It sometime. When we talk to the
17 customer, sometime you have an accent, but a
18 customer make a comment we have an accent.

19 Q. Okay. And I guess what I'm trying to find
20 out is how often does that happen?

21 A. It's not very often.

22 Q. Maybe once a month?

23 A. No, not that.

24 Q. Not even that? Maybe three or four times
25 a year?



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1 A. I did not recall. I'm sorry.

2 Q. Okay. Okay. But it happens from time to
3 time with the customers; is that a fair statement?

4 A. I didn't recall. It's once in a little
5 while, yeah.

6 Q. Okay.

7 A. I'm not sure. At the time, I did not
8 know.

9 Q. Can you -- I'm sorry. You have a quiet
10 voice. Can you say that again.

11 A. I said I did not recall.

12 Q. When?

13 A. It's once in a little while. Yeah, I'm
14 not sure how long, how many a year.

15 Q. Okay. Do you know if that ever happened,
16 if a customer ever made a comment to you about your
17 accent when you were working as a customer service
18 agent in Wells Fargo's HEMASS department?

19 A. Yes, it's possible.

20 Q. Okay. I'm assuming -- you know, these
21 were many years ago -- you wouldn't -- you wouldn't
22 remember what date that happened on or who the
23 customer was or anything like that?

24 A. Yes, that's possible.

25 Q. Okay. It's possible.



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1 CMP department selected customer service calls for
2 review?

3 A. For the QA monitor, yes.

4 Q. How did they do that?

5 A. They monitor the call to make sure you are
6 -- I mean, for coaching purposes.

7 Q. For --

8 A. For coaching.

9 Q. -- coaching?

10 A. For coaching purposes, yes.

11 Q. Okay. So CMP monitored the calls for
12 coaching purposes. Is that what you said?

13 A. Yes.

14 Q. Okay. Do you know how CMP decided which
15 calls to listen to?

16 A. I do not work for the QA department. I'm
17 not sure how they go in there. They could be pick
18 up any call they want, and I don't know what they
19 do.

20 Q. Okay. That's what I -- I'm just trying to
21 find out if you -- There's going to be a lot of
22 things that we talk about, that you know about
23 because those things were your job and you received
24 training on them; and there's going to be some
25 things that I'm assuming I'm going to ask you about,



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1 that weren't part of your job and you may not know
2 about them. I'm just trying to find that out.

3 A. Okay.

4 Q. And so the question is, and I think you
5 answered it: Do you know how the CMP department
6 selected which calls it was going to review?

7 A. No, I don't.

8 Q. Did you ever talk with someone from the
9 CMP department and ask them how they selected calls
10 for review?

11 A. No, they not allowed to.

12 Q. Was the CMP department kept pretty
13 separate from your department?

14 A. Yes.

15 Q. Do you have any information that, during
16 the time you worked for Wells Fargo, Peter LeDonne
17 or Kimberly Thrush had the ability to influence
18 which calls were selected by the CMP for review?

19 A. I apologize. Can you explain that one
20 more time.

21 Q. Of course. Do you have any information
22 that, during the time you worked for Wells Fargo,
23 Peter LeDonne or Kimberly Thrush had the ability to
24 influence which calls the CMP reviewed?

25 A. It's possible, yes.



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1 that every month the CMP would select a certain
2 amount of calls and they would review them and score
3 them; correct?

4 A. Yes.

5 Q. Okay. What I'm trying to find out is if
6 you had -- if Ms. Thrush or any other manager ever
7 told you that the HEMASS manager had the ability to
8 tell CMP, in selecting those calls for the month,
9 which calls they should review.

10 A. Possible, yes.

11 Q. Okay. Who told you that?

12 A. Kimberly said management communicate each
13 other. They go through all the call and they
14 communicate with the QA. So that what I know.

15 Q. Okay. Sir, I understand that management
16 between CMP and HEMASS communicated. I'm asking you
17 something more specific.

18 A. Okay.

19 Q. Do you have any information, from any
20 source, that a HEMASS manager could tell the CMP
21 department which calls they were going to review?

22 A. That, I did not recall.

23 Q. Do you have any information that any of
24 the CMP evaluators knew that you took family leave
25 in June of 2014?



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1 A. That, I don't remember.

2 Q. Did you ever tell anyone from the CMP that
3 you took family leave in June of 2014?

4 A. That something I did not recall.

5 Q. Did anyone from CMP ever tell you that
6 they were aware that you had taken family leave in
7 June of 2014?

8 A. I report to the command center, not the OA
9 department.

10 Q. Right. So would the answer to that
11 question be no, that --

12 A. It's no.

13 Q. Okay. Do you have any information that
14 anyone from the CMP department was aware that you
15 had reported what you believed to be unlawful
16 conduct with regard to deceiving customers about
17 missing loan documents?

18 MS. STEPHENSON: Objection. Calls for
19 speculation.

20 Q. BY MS. LIVELY: Go ahead.

21 A. Can you repeat that one more time. I'm
22 sorry. Can you explain that.

23 Q. Yes. I'm asking if -- So one of your
24 allegations in this case is that you believed Wells
25 Fargo was engaging in unlawful conduct with regard



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1 to deceiving customers about missing loan documents;
2 correct?

3 A. I still do not understand the question.

4 Q. Okay. Do you understand that one of your
5 allegations, one of your claims against Wells
6 Fargo --

7 A. Right.

8 Q. -- is that they were doing something
9 unlawful by deceiving customers as to missing loan
10 documents?

11 A. Yes.

12 Q. Do you have any information that the CMP
13 department was aware that you had opposed this
14 unlawful -- what you believed to be unlawful
15 activity?

16 A. Can you repeat it one more time.

17 Q. Sure. Did you --

18 A. I'm sorry.

19 Q. Did you ever tell anyone in the CMP
20 department that you had opposed what you believed to
21 be unlawful conduct with regard to missing customer
22 loan department documents?

23 A. We not allowed to talk to the CMP
24 department.

25 Q. Okay. So the answer to that question



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1 is --

2 A. No.

3 Q. -- no, you never told anyone in the CMP;
4 correct?

5 A. No.

6 Q. Okay. Did anyone from the CMP department
7 ever indicate to you that they were aware that you
8 had opposed what you believed to be unlawful conduct
9 with regard to missing loan documents?

10 A. Can you explain one more time.

11 Q. Sure.

12 A. Please.

13 Q. Did anyone from the CMP department ever
14 indicate to you that they knew you had reported what
15 you believed to be unlawful conduct with regard to
16 loan documents?

17 A. No.

18 Q. Do you have any information, from any
19 source, that the CMP scores that you received were
20 influenced by your report of unlawful conduct with
21 regard to missing loan documents?

22 A. Can you explain in little more detail.
23 I'm sorry.

24 Q. Yes. Do you have -- Do you -- Do you have
25 any information from anyone -- something you read,



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1 that part.

2 Q. What are you not understanding?

3 A. You asked me the question. I did not know
4 what meaning on that.

5 Q. Do you believe that the CMP department
6 knew that you had reported what you believed to be
7 unlawful conduct with regard to missing all the
8 documents?

9 A. I did not recall at that time. It's been
10 a while. I don't remember.

11 Q. Do you have any information or evidence
12 that the CMP department was aware that you had
13 reported what you believed to be unlawful conduct
14 with regard to missing loan documents?

15 A. I did not recall that.

16 Q. Is there anything that you could look at
17 that would help you recall that?

18 A. It's been what, three year? I don't
19 remember much.

20 Q. Well, that's -- that's what I'm asking.

21 Is there something that you could look at
22 that would help you remember whether you thought the
23 CMP department was aware that you'd reported what
24 you thought to be unlawful conduct?

25 A. Well, CMP QA is for coaching -- coach and



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1 monitor purposes. You don't report to QA.

2 Q. I understand that, Mr. Tran.

3 What I'm trying to find out is if you
4 believe that the CMP department manipulated their
5 review of your calls as a way of getting back at you
6 for complaining of unlawful activity with regard to
7 missing loan documents.

8 MS. STEPHENSON: Objection. Calls for
9 speculation.

10 THE WITNESS: I did not recall what --
11 what QA do at that time. Been a while.

12 Q. BY MS. LIVELY: I'm asking if you believe
13 that.

14 A. I don't know how to answer the question.

15 Q. Well, it seems like a yes or no: Do you
16 believe that your CMP scores from the CMP department
17 were influenced in some way by the fact that you had
18 made a report of unlawful activity?

19 A. It's possible.

20 Q. Okay. What do you base that on?

21 A. QA can go in there and pick up any call
22 they monitor to. And you never talk to QA, we're
23 not allowed to. They're the coaching on the
24 supervisor, for coaching.

25 Q. Okay. Do you have any information, from



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1 any source, that the QA department was aware that
2 you had made a report of unlawful activity with
3 regard to missing customer documents?

4 A. I did not recall.

5 Q. If you had thought that the QA department
6 was giving you scores to retaliate against you,
7 would you have told human resources that?

8 MS. STEPHENSON: Objection. Calls for
9 speculation.

10 THE WITNESS: It's been a while. I did
11 not remember.

12 Q. BY MS. LIVELY: Do you have any
13 information, Mr. Tran, that Kimberly Thrush or Peter
14 LeDonne had the ability to alter your phone calls
15 before they went to the CMP?

16 A. It's possible, yes.

17 Q. Okay. What do you base that on?

18 A. Kimberly and Peter can access all the QA
19 monitoring system, also; that why they give score
20 for coaching.

21 Q. I understand that. But what I'm asking
22 you is if, other than a possibility in your mind, do
23 you have any actual information that Peter LeDonne
24 or Kimberly Thrush had the ability to alter a
25 customer call before it went to CMP?



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1 A. It's possible, yes.

2 Q. Okay. And do you have any -- any
3 information to back that up, other than because you
4 think that might be a possibility?

5 A. It's because they get access to QA, call
6 monitor, with their ability; and then they send to
7 the QA for monitor, for coaching.

8 Q. So do you know that, by accessing the
9 calls, they have the ability to alter the calls?

10 A. That is something I did not recall.

11 Q. And were you aware that QA selected the
12 calls, and not the HEMASS managers, for CMP review?

13 A. Possible, yes.

14 (Exhibit 64 marked.)

15 THE WITNESS: Thank you.

16 Q. BY MS. LIVELY: Mr. Tran, the court
17 reporter has handed you what's been marked as
18 Exhibit 64 in this case.

19 Do you have that document in front of you?

20 A. Yes.

21 Q. And Exhibit 64 is the memorandum of
22 understanding that Ms. Thrush and Mr. LeDonne
23 presented to you on or around July 22nd, 2014; is
24 that correct?

25 A. I did not recall what dates, exactly what



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1 dates.

2 Q. Do you recall being given the memorandum
3 of understanding in July of 2014?

4 A. Yes.

5 Q. And looking at the July memorandum of
6 understanding, the first paragraph states, quote:
7 "This memo confirms that you did not attend the two
8 instances of creating customer loyalty trainings
9 that HEMASS has offered, year to date," end quote.

10 Did I read that correctly, Mr. Tran?

11 A. Yes.

12 Q. And was that a true statement? Had you
13 not attended the first two offerings of the CCL
14 training?

15 A. Possible, yes. I did not remember
16 exactly.

17 Q. Do you have any reason to dispute that you
18 did not attend the first two instances of the CCL
19 training in 2014?

20 A. It's been for a while. I did not remember
21 exactly what date.

22 Q. Well, I'm not asking about specific dates.
23 I'm asking if you have any reason to dispute that
24 you missed the first two CCL trainings that were
25 offered in 2014.



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1 A. Well, I remember June. I'm not sure about
2 July.

3 Q. No, the other one was in January.

4 Do you remember that there was a CCL
5 training in January that you missed because you were
6 sick?

7 A. Possible, yes.

8 Q. So do you have any reason to dispute that
9 you missed the first two offerings of the CCL
10 training in 2014, as of the time that you were given
11 the memorandum of understanding?

12 A. I did not remember when I was missing the
13 one in January, but I know the one in June I was
14 missing a training class. I was sick and my son
15 also was sick.

16 Q. So is it your testimony that you just
17 don't remember one way or another whether you missed
18 the first offering of the CCL training in 2014?

19 A. Yes, I did not recall. Been a while, been
20 a long time.

21 Q. Do you have any reason to dispute that you
22 missed the January 2014 CCL training?

23 A. I did not remember.

24 Q. Okay. The second sentence of the MOU
25 states, quote: "Because CCL training is a



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1 requirement for the customer service representative
2 position, and because the CCL model is required to
3 properly and uniformly service customers in HEMASS,
4 we will provide you an individual review of the
5 model for you and then work to ensure you are in
6 attendance at the next time CCL is offered."

7 Do you see that?

8 A. Yes.

9 Q. And do you have any information to dispute
10 that the CCL training was in fact mandatory for
11 customer service agents in HEMASS?

12 A. I'm sorry. Say it one more time, please.

13 Q. Sure. Do you have any reason to dispute
14 the statement that the CCL training was mandatory
15 for customer service agents in HEMASS?

16 A. No.

17 Q. And do you have any information to dispute
18 the statement that we just read, that the purpose of
19 the CCL training was to properly and uniformly
20 service customers in HEMASS?

21 A. Yes.

22 Q. Why do you dispute that?

23 A. Oh, I'm sorry. I didn't understand the
24 question. I thought --

25 Q. Okay. Let me -- Let me ask it again.



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1 Do you have any reason to dispute the
2 statement that the purpose of the mandatory CCL
3 training was to properly and uniformly service
4 customers in HEMASS?

5 A. I did not dispute it.

6 Q. Okay. Do you have any information that
7 other HEMASS customer service agents were allowed to
8 miss the mandatory CCL training?

9 A. Not that I recall.

10 Q. Do you have -- Do you -- Strike that.
11 Are you aware of whether any other HEMASS
12 agents in your department missed the CCL training?

13 A. Possible, yes.

14 Q. Who missed the CCL training?

15 A. I did not recall. People get sick.

16 Q. Well, I don't want you to guess. I want
17 you to tell me, as you sit here today, if you have a
18 specific memory that a co-worker also missed the CCL
19 training.

20 A. That, I did not recall. It possible, yes.

21 Q. Do you know if any HEMASS agents were
22 allowed to continue to work in customer service if
23 they did not attend the CCL training?

24 A. I'm sorry. Can you ask that one more
25 time, please.



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1 Q. Sure. Do you have any information that if
2 a HEMASS customer service agent did not attend CCL
3 training, he or she would have been allowed to
4 continue to work as a customer service agent?

5 A. I don't recall that.

6 Q. Was it your understanding that if the CCL
7 training wasn't completed, you may no longer be able
8 to continue to work as a customer service agent?

9 A. Well, you can retrain it. We have a
10 different class. I did go to the second training
11 class after September.

12 Q. I'm saying if they never completed it.
13 I'm trying to find out if you understood
14 that by saying "mandatory," the CCL class was a
15 requirement of being a customer service agent in
16 HEMASS.

17 Did you understand that?

18 A. Yes.

19 Q. Do you know who made the decision to issue
20 the July 2014 memorandum of understanding to you?

21 A. It Kimberly.

22 Q. And how do you know she's the one who made
23 the decision?

24 A. She call me in office with Peter.

25 Q. And did she tell you that she had made the



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1 decision to issue you the memorandum of
2 understanding?

3 A. She did that first, before I go into her
4 office.

5 Q. Okay. Do you know if she consulted with
6 anyone else in deciding to issue you the memorandum
7 of understanding?

8 A. Not that I recall.

9 Q. And do you have any personal knowledge of
10 what factors Kimberly considered in deciding to
11 issue you the July memorandum of understanding?

12 A. I did not know what Kimberly did in that
13 time.

14 Q. You eventually attended the CCL training
15 in September of 2014; correct?

16 A. Yes.

17 Q. And after taking it, you agreed that it
18 was helpful training for your job as a customer
19 service agent in HEMASS; correct?

20 A. Yes.

21 Q. And returning to the second sentence of
22 the July memorandum of understanding, it states
23 that, essentially, in the interim time between you
24 receiving the memo and the next CCL training, Wells
25 Fargo would provide you with an individual review of



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1 the CCL model; is that correct?

2 A. Yes.

3 Q. And Wells Fargo did that; correct?

4 A. Yes.

5 Q. And do you recall that on or around July

6 25th, 2014, Peter LeDonne and Caz Moreland met with

7 you for approximately two hours to provide you a

8 summary of the CCL training?

9 A. Yes.

10 Q. And during that meeting, you were provided

11 with the team member skills handout, call flow

12 handout, and CCL training handbook; correct?

13 A. That is correct.

14 Q. And isn't it true that you found this

15 individualized training that Mr. LeDonne and

16 Ms. Moreland provided to you helpful to you as a

17 customer service agent?

18 A. Yes.

19 Q. Would you agree, Mr. Tran, that the

20 individual training of the CCL model that you

21 received assisted you in succeeding in your job?

22 A. Yes.

23 (Exhibit 65 marked.)

24 THE WITNESS: Thank you.

25 (Sotto voce remarks.)



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1 MS. LIVELY: Okay. Sorry. What number
2 did you tell us?

3 THE REPORTER: Sixty-five.

4 MS. LIVELY: Sixty-five.

5 Q. BY MS. LIVELY: Mr. Tran, the court
6 reporter has handed you what's been marked as
7 Exhibit 65, and I want you to look at the middle
8 part because I realize it's in a format that you may
9 not recognize.

10 But there appears to be an e-mail from you
11 to Peter LeDonne, sent on Friday, July 25th, 2014,
12 at 5:30 p.m. Do you see that?

13 A. Yes.

14 Q. And do you have any reason to dispute that
15 that's an e-mail that you sent to Mr. LeDonne on
16 July 25th, 2014?

17 A. May I read it?

18 Q. Of course.

19 A. Yes.

20 Q. That's an e-mail that you sent to
21 Mr. LeDonne?

22 A. Yes.

23 Q. And were you truthful when you wrote that
24 in Exhibit 65?

25 A. Possible, yes.



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1 Q. Is it possible that you were being
2 untruthful when you wrote that e-mail?

3 A. I will say yes.

4 Q. What would -- What would you have been
5 being untruthful about?

6 A. I mean just -- yes.

7 Q. I'm not sure what you're saying yes to.

8 A. Is that what I wrote was help me -- help
9 me to improve the knowledge to communicate with the
10 customer, yes.

11 Q. That was truthful?

12 A. Yes.

13 Q. And was it truthful where you said, "I can
14 see this training course, that very helpful and that
15 make me understand deeply how important to service
16 our customer in better way"?

17 A. Yes.

18 Q. And was it truthful that you appreciated
19 that Mr. LeDonne and Ms. Moreland had provided you
20 with the training?

21 A. Yes.

22 Q. Mr. Tran, are you aware of any other
23 HEMASS customer service agents who received
24 individualized training like you did on July 25th,
25 2014?



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1 A. Not that I recall.

2 Q. Mr. Tran, can you think of a reason why,
3 if Mr. LeDonne wanted to get back at you for taking
4 family leave in June, he would take the time to
5 provide you with this individualized training that
6 you found helpful?

7 MS. STEPHENSON: Objection. Calls for
8 speculation. Compound.

9 THE WITNESS: I didn't understand the
10 question. I'm sorry.

11 Q. BY MS. LIVELY: Pardon?

12 A. I did not understand the question. Can
13 you explain that for me, please.

14 Q. Sure. If Mr. LeDonne was hostile to you
15 because you took family leave, why would he take the
16 time out of his schedule to provide you this
17 individualized training?

18 MS. STEPHENSON: Objection. Calls for
19 speculation. Assumes facts not in evidence.

20 THE WITNESS: I'm not sure why Peter did
21 that. I'm not sure why he provide it.

22 Q. BY MS. LIVELY: You don't know why he
23 provided it?

24 A. I don't know why he provide it, yes.

25 Q. Wouldn't you agree, Mr. Tran, that if



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1 Wells Fargo is looking for a way to get rid of you,
2 they would have just had you not take the CCL class
3 and then become ineligible to work in the
4 department?

5 MS. STEPHENSON: Objection. Calls for
6 speculation. Assumes facts not in evidence. Calls
7 for a legal conclusion.

8 THE WITNESS: I don't know how to answer
9 that question.

10 Q. BY MS. LIVELY: Well, in your head, does
11 it make sense that, if a company wants to get rid of
12 an employee, they would provide training that helps
13 that employee succeed?

14 A. That -- Nothing I know of.

15 Q. Okay. Did it occur to you that
16 Mr. LeDonne provided you with the individualized
17 training to assist you in doing your job better?

18 MS. STEPHENSON: Objection. Assumes facts
19 not in evidence.

20 THE WITNESS: I'm sorry. Can you ask it
21 one more time, please.

22 Q. BY MS. LIVELY: Sure. Did it occur to you
23 that Mr. LeDonne provided you with the
24 individualized training to help assist you in doing
25 your job better?



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1 A. Just for coaching purposes.

2 Q. Right. To make you --

3 (Reporter request.)

4 THE WITNESS: For coaching purposes.

5 Q. BY MS. LIVELY: Coaching purposes?

6 A. Yes.

7 Q. And that would be to help you improve your
8 skills; correct?

9 A. Possible, yes.

10 Q. Did it occur to you that Ms. Thrush issued
11 you the memorandum of understanding to convey to you
12 the importance of attending the CCL training?

13 MS. STEPHENSON: Objection. Assumes facts
14 not in evidence. Calls for speculation.

15 THE WITNESS: I'm not sure what Kimberly
16 issued a memo. I did not know what she did.

17 Q. BY MS. LIVELY: Well, was it clear to you,
18 after you received the memorandum of understanding,
19 that attendance at the CCL training was really
20 important?

21 A. Possible, yes.

22 Q. And did you understand, after receiving
23 the memorandum of understanding, that if you did not
24 attend the CCL training, you may become ineligible
25 for working as a customer service agent in HEMASS?



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1 A. I'm sorry. Can you repeat it one more
2 time.

3 Q. Sure. After receiving the memorandum of
4 understanding, did you realize that if you failed to
5 attend the CCL training, you would become ineligible
6 to work as a customer service agent in HEMASS?

7 A. Yes.

8 Q. Did Ms. Thrush tell you that?

9 A. Ms. Thrush was telling me is, "If you're
10 missing a training class again, I will put you on
11 the leave of absence. You have to go look for
12 another job." She was threatening me in that time
13 in her office.

14 Q. And do you have any reason to dispute that
15 she would not have had any alternative but to find
16 another job, if you didn't complete the mandatory
17 training?

18 MS. STEPHENSON: Objection. Calls for
19 speculation.

20 THE WITNESS: That's all I know what she
21 told me.

22 Q. BY MS. LIVELY: But you don't have any
23 reason to think she was lying to you about that
24 statement, do you?

25 A. I didn't know what she thinking.



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1 Q. Did the July memorandum of understanding
2 reduce your rate of pay?

3 A. I'm sorry. I didn't hear the question.

4 Q. Did the July memorandum of understanding
5 cause you to have a reduced rate of pay?

6 A. You mean reduce in my pay rate?

7 Q. Correct.

8 A. No.

9 Q. Did the July memorandum of understanding
10 decrease the number of hours that you worked each
11 week at Wells Fargo?

12 A. No, ma'am.

13 Q. Did the July memorandum of understanding
14 alter the benefits that you were eligible for or
15 received at Wells Fargo?

16 A. That, not that I recall.

17 Q. Did the July memorandum of understanding
18 significantly alter your job duties as a customer
19 service agent?

20 A. Possible, yes.

21 Q. How did it significantly alter your job
22 duties as a customer service agent?

23 A. For better improvement to -- for customer
24 service.

25 Q. Oh, okay. I'm asking something a little



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1 different.

2 I'm asking if you had different job duties
3 after the memorandum of understanding than you did
4 before, or did you essentially have the same job
5 duties?

6 A. The same job duty, yes.

7 Q. Okay.

8 A. I'm sorry. I didn't understand your
9 question.

10 Q. That's all right. I figured that.

11 And did the memorandum of understanding
12 make you ineligible for transfer to another
13 department?

14 MS. STEPHENSON: Objection. Calls for
15 speculation.

16 THE WITNESS: I did not understand the
17 question. I'm sorry.

18 Q. BY MS. LIVELY: Sure. And, again, if you
19 don't know, it's okay to say you don't know.

20 Did receiving the memorandum of
21 understanding make you ineligible for transfer to
22 another department?

23 MS. STEPHENSON: Calls for speculation.

24 THE WITNESS: Not that I recall.

25 Q. BY MS. LIVELY: Did anyone ever tell you



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1 that the memorandum of understanding was issued to
2 you because you took Oregon family leave?

3 A. I'm sorry. Could you say that one more
4 time.

5 Q. Sure. Did anyone at Wells Fargo ever tell
6 you that the reason they issued you the memorandum
7 of understanding was because you had taken Oregon
8 family leave?

9 A. Yes.

10 Q. Who told you that?

11 A. Peter.

12 Q. What did Peter say?

13 A. Peter said, "The next training class in
14 September. If you not attend with the memo we
15 issue, you will get terminated."

16 Q. Okay. That's -- That's different than the
17 question I asked.

18 A. Oh, I'm sorry.

19 Q. It's okay. The question I asked was: Did
20 somebody say, "The reason we are giving you" -- or
21 something to this effect -- "The reason we're giving
22 you the memorandum of understanding is because you
23 took leave under the Oregon Family Leave Act"?

24 A. That something I did not remember.

25 Q. Okay. Do you have any information,



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1 Mr. Tran, that Wells Fargo would not have issued you
2 the memorandum of understanding if you had missed
3 the June CCL training but for a non Oregon family
4 leave reason?

5 A. I still did not understand that question.
6 I'm sorry, Counsel.

7 O. It's okay. So let's say that you had
8 missed the June CCL training because you went on
9 vacation. Right?

10 A. Yes.

11 O. But you missed it because it was a
12 vacation.

13 Do you have any information that Wells
14 Fargo would have refrained, would have not given you
15 the memorandum of understanding in those
16 circumstances?

17 A. I did not know.

18 Q. At the time the memorandum of
19 understanding was delivered to you by Ms. Thrush,
20 was anyone else present?

21 A. Only Kimberly.

22 Q. And where -- where were you when she gave
23 it to you?

24 A. In her office.

25 Q. Is that a closed-door office or a cubicle?



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1 A. It's a big cubicle.

2 Q. Do you know whether anyone -- did anyone
3 ever tell you that they overheard that conversation?

4 A. No one tell me.

5 Q. When Ms. Thrush gave you the July
6 memorandum of understanding, did she say anything
7 negative about you having -- you having taken Oregon
8 family leave?

9 A. That, I did not remember.

10 Q. When the July memorandum of understanding
11 was given to you, did Ms. Thrush say anything
12 negative about your child having been sick in June?

13 A. That something I did not recall.

14 Q. When Ms. Thrush gave you the memorandum of
15 understanding, did she mention anything about you
16 being Asian?

17 A. No.

18 Q. When Ms. Thrush gave you the memorandum of
19 understanding, did she say anything about your
20 accent?

21 A. No.

22 Q. Did Kimberly Thrush ever try to discourage
23 you from taking family leave?

24 A. I did not recall that.

25 Q. Did you ever apply for any family leave



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1 under the Oregon Family Leave Act, that was denied
2 to you?

3 A. No.

4 Q. Did anyone in management at Wells Fargo
5 ever tell you that it was inappropriate for you to
6 take Oregon family leave?

7 A. Not that I recall. I don't remember.

8 Q. Were you aware of other agents on
9 Ms. Thrush's team who had taken Oregon family leave?

10 A. That, I do not know of.

11 Q. Do you remember telling Mr. LeDonne that
12 Heather Stone was allowed to take leave when her
13 child had pink eye?

14 A. No.

15 Q. Did anyone in management at Wells Fargo
16 ever tell you that you could be fired for taking --
17 taking Oregon family leave?

18 A. That something I did not remember.

19 Q. Do you have any information that
20 Ms. Thrush or Mr. LeDonne took a negative action
21 against Ms. Stone because she took Oregon family
22 leave?

23 A. I did not know Heather Stone took -- take
24 medical leave. I did not know.

25 Q. Do you have any information that



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1 Ms. Thrush or Mr. LeDonne took any negative action
2 against you because you took Oregon family leave?

3 A. I did not recall that.

4 Q. Did you refuse to sign the memorandum of
5 understanding?

6 A. Yes.

7 Q. Why did you refuse to sign it?

8 A. She did not ask me to sign. She said, "I
9 want you to read it and I want you to put your
10 initial on it." And I said, "No, I don't have to
11 sign on this."

12 Q. Why did you not want to put your initial
13 on it?

14 A. Because I don't feel comfortable putting
15 my initials on it.

16 Q. Looking at Exhibit 64, today, is there
17 anything contained within Exhibit 64 that you
18 believe is untrue or inaccurate? And you can take
19 your time to read it again.

20 A. No, I don't believe that the training
21 class is in July; it is in June.

22 Well, she wrote the date July 11, but
23 she's stating on the written of July 21st. We don't
24 have no training class in July; it was in June. So
25 this is not correct.



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1 Q. Well, which sentence are you looking at?

2 A. She says the date is July 11th, she wrote;
3 but here she said: "Your team leadership during
4 week of July 21st, 2014."

5 Q. Oh. See, that sentence says: "An
6 individual review of the CCL model will take place
7 with your team leadership during the week of July
8 21st, 2014." Correct?

9 A. Yes, what she wrote; but I did not know
10 what she mean by that.

11 Q. Okay. But we already discussed that you
12 did have an individual review with Mr. LeDonne and
13 Ms. Moreland on July 25th; correct?

14 A. Yes.

15 Q. Okay. So, aside from that that we just
16 talked about, is there anything that you believe is
17 incorrect or inaccurate in Exhibit 64, the
18 memorandum of understanding?

19 A. Yes.

20 Q. What else is inaccurate?

21 A. No, I agree with it. Yes.

22 Q. Okay. Maybe I should ask it a better way.

23 I'll go ahead and ask it. How do I not ask it as a
24 negative?

25 Do you agree that the statements contained



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1 within Exhibit 64, the memorandum of understanding,
2 are accurate?

3 A. Yes, I agree.

4 Q. Okay. Do you have any information that
5 Wells Fargo considered your report of unlawful
6 activity with regard to concealing lost loan
7 documents as a factor in its decision to issue the
8 July memorandum of understanding?

9 MS. STEPHENSON: Objection. Calls for a
10 legal conclusion. Calls for speculation.

11 THE WITNESS: I'm sorry. I -- Can you
12 explain the question.

13 MS. LIVELY: Sure.

14 THE WITNESS: It's a long question.

15 Q. BY MS. LIVELY: Sure. Do you believe that
16 you were issued that memorandum of understanding
17 because you reported what you believed to be
18 unlawful activity with regard to concealing lost
19 loan documents?

20 MS. STEPHENSON: Objection. Calls for
21 legal conclusion.

22 Q. BY MS. LIVELY: Go ahead.

23 A. I'm confused a lot with what you're
24 saying, the question.

25 Q. Well, in this lawsuit, you have a claim



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1 that Wells Fargo retaliated against you because you
2 reported what you believed to be unlawful conduct
3 with regard to lost loan documents.

4 Do you understand that? Do you understand
5 that you have that claim?

6 A. My lawyer write that claim. I did not
7 remember. I'm sorry.

8 Q. Well, do you understand that that's one of
9 your claims?

10 A. Yes.

11 Q. Okay. So I'm entitled to find out what
12 you think, what negative things, in what ways you
13 think Wells Fargo retaliated against you for making
14 that report. Okay? I get to find out what you
15 think Wells Fargo did in retaliation "to get back at
16 you," in regular English, for making that report.
17 And what I'm trying to find out is whether you think
18 that the memorandum of understanding was one of the
19 things that Wells Fargo did to get back at you for
20 making that report.

21 A. That was a possible, yes.

22 Q. Okay. What do you base that on?

23 A. Based on the e-mail in April 29, and I
24 would talk to Peter. I do not agree with that
25 e-mail tell me to deceive the customer and lying.



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1 We discussed with Peter about that and I asked him,
2 "Why did you talk at to send that e-mail?" He said
3 -- He told me it came from up management.

4 Q. What I'm trying to find out is if you have
5 any information that ties your receiving the
6 memorandum of understanding to that report.

7 Did somebody tell you that you were being
8 issued the memorandum of understanding because you
9 made the report of unlawful activity?

10 MS. STEPHENSON: Objection. Compound.

11 THE WITNESS: I still did not understand
12 that question. I'm sorry.

13 Q. BY MS. LIVELY: Did -- Mr. Tran, did
14 anyone ever tell you that the reason that you were
15 receiving the memorandum of understanding was
16 because you'd made a report of unlawful activity?

17 A. No, did not.

18 Q. Do you have any evidence to support the
19 fact that you received the memorandum of
20 understanding because you reported unlawful
21 activity?

22 MS. STEPHENSON: Objection. Calls for a
23 legal conclusion.

24 THE WITNESS: I still did not understand
25 the question.



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1 that question.

2 Q. BY MS. LIVELY: Well, do you have any
3 other information, other than the fact that you made
4 a report of unlawful activity, that ties the
5 memorandum of understanding to that report?

6 MS. STEPHENSON: Objection. Calls for a
7 legal conclusion.

8 THE WITNESS: I still do not understand
9 the question. I'm sorry.

10 Q. BY MS. LIVELY: Other than the fact that
11 you made a report of what you believed to be
12 unlawful activity, do you have any information that
13 the memorandum of understanding was related to that
14 report of unlawful activity?

15 MS. STEPHENSON: Objection. Calls for a
16 legal conclusion.

17 THE WITNESS: I still don't know how to
18 answer that question.

19 Q. BY MS. LIVELY: Well, nobody told you that
20 the memorandum was based on your report of unlawful
21 activity; correct?

22 A. Yes.

23 Q. Did you ever see any documents that
24 suggested that the memorandum of understanding was
25 based on your report of unlawful activity?



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1	<u>A.</u> <u>No.</u>
---	----------------------

2 Q. Did you ever hear any colleagues or
3 co-workers saying that they knew that the memorandum
4 of understanding had been issued to you because
5 you'd made a report of illegal activity?

6 A. Not that I recall.

7 MS. LIVELY: All right. Why don't we go
8 ahead and go off the record.

9 THE VIDEOGRAPHER: Going off the record.
10 This marks the end of disk 1. The time is 11:16
11 a.m.

12	(Recess.)
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13 THE VIDEOGRAPHER: Going back on the
14 record. This marks the beginning of media 2. The
15 time is 11:26 a.m.

16 Q. BY MS. LIVELY: Mr. Tran, we are back on
17 the record in your deposition.

18 Do you realize that you are still under
19 oath?

20 A. Yes, ma'am.

21 Q. And, following the break, do you have any
22 testimony that you would like to add to or modify?

23	A. No, ma'am.
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24 Q. During the time that you worked for Wells
25 Fargo, did you understand that the company had a



Declaration of Leah C. Lively in Support of Defendant's Motion for Summary Judgment

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EXHIBIT 3

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1 team member handbook that applied to you?

2 A. Yes.

3 MS. LIVELY: All right.

4 (Exhibit 66 marked.)

5 Q. BY MS. LIVELY: Mr. Tran, the court
6 reporter has handed you what's been marked as
7 Exhibit 66, which is a document entitled "Wells
8 Fargo team member handbook," with a date of January
9 2014.

10 Do you see that?

11 A. Yes.

12 Q. And do you recognize this as the handbook
13 that Wells Fargo had in place as of January 2014?

14 A. Yes.

15 (Exhibit 67 marked.)

16 THE WITNESS: Thank you.

17 Q. BY MS. LIVELY: Mr. Tran, the court
18 reporter has handed you what's been marked as
19 Exhibit 67, which is a document entitled "team
20 member acknowledgment" and appears to be signed by
21 you on February 16th, 2004.

22 A. Yes. May I read it?

23 Q. Yes.

24 A. Yes.

25 Q. Do you recognize Exhibit 67, Mr. Tran?



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1 A. Yes.

2 Q. And is that your signature above where it
3 states "team member signature"?

4 A. Yes, ma'am.

5 Q. And did you sign Exhibit 67 on February
6 16th, 2004?

7 A. Yes, ma'am.

8 Q. And did you read Exhibit 67 before you
9 signed it?

10 A. Yes, I did.

11 Q. And the first bullet point towards the top
12 of Exhibit 66, there's a paragraph that states: "I
13 have received or understand I will be provided the
14 handbook for Wells Fargo team members in hard copy
15 and/or be shown how to find it online," period. "I
16 understand that the policies it contains do not
17 constitute an expressed or implied contract of
18 employment and that employment is at-will," period.
19 "I further understand that this" -- "that it is my
20 responsibility to read the handbook thoroughly and
21 become familiar with its content," period.

22 Did I read that correctly, Mr. Tran?

23 A. Yes, ma'am.

24 Q. After being hired by Wells Fargo, did you
25 read the handbook thoroughly and become familiar



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1 THE VIDEOGRAPHER: Counselor.

2 MS. LIVELY: Christina.

3 THE VIDEOGRAPHER: Do you have your mike
4 on? Oh.

5 Q. BY MS. LIVELY: This page is entitled
6 "serve Wells Fargo's best interests"; correct?

7 A. Yes.

8 Q. And the very last sentence on that page
9 states: "If you become aware of any violations or
10 potential violations of this code of applicable
11 laws, rules, or regulations, or of accounting
12 standards or controls, you must promptly report such
13 activity as described in the ethics line section of
14 this code."

15 Did I read that correctly?

16 A. Yes, ma'am.

17 Q. Mr. Tran, did you ever report any concerns
18 regarding lost loan documents to Wells Fargo's
19 ethics line?

20 A. No, ma'am.

21 Q. Why not?

22 A. I did not read the handbook. I did not
23 know where to go.

24 Q. In fact, you never reported a possible
25 violation of law, rule, or regulation with regard to



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1 missing customer loan documents to anyone outside of
2 Peter LeDonne, did you?

3 MS. STEPHENSON: Objection. Calls for a
4 legal conclusion.

5 THE WITNESS: I'm sorry. Say it one more
6 time, please.

7 Q. BY MS. LIVELY: Yeah. You never reported
8 a possible violation of law, rule, or regulation
9 with regard to missing customer loan documents to
10 anyone other than Peter LeDonne, did you?

11 MS. STEPHENSON: Objection. Calls for a
12 legal conclusion. Assumes facts not in evidence.

13 THE WITNESS: This I did not remember.

14 Q. BY MS. LIVELY: Mr. Tran, I will represent
15 to you for purposes of this deposition that we have
16 records of 28 separate e-mails that you sent to
17 human resources representatives and at least six
18 telephone meetings from the last six months of your
19 employment with Wells Fargo, and in not one of them
20 do you raise the issue of concealing customer loan
21 documents.

22 MS. STEPHENSON: Objection. Assumes facts
23 not in evidence. Calls for speculation. Calls for
24 a legal conclusion.

25 Q. BY MS. LIVELY: Do you have any



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1 information to dispute that?

2 A. I did not remember. It's been for a
3 while, for a long time.

4 Q. Can you tell me why, Mr. Tran, if you
5 thought Wells Fargo was retaliating against you or
6 reporting unlawful conduct with regard to missing
7 loan documents, you did not raise that issue once in
8 those 34 interactions with human resources that you
9 had?

10 MS. STEPHENSON: Objection. Calls for
11 legal conclusion. Calls -- or assumes facts not in
12 evidence.

13 THE WITNESS: It's been for a long time.
14 I did not remember.

15 Q. BY MS. LIVELY: Isn't the reason that you
16 did not raise the issue of missing customer loan
17 documents as a basis for retaliation because you did
18 not believe that to be the case when you worked for
19 Wells Fargo?

20 MS. STEPHENSON: Objection. Calls for a
21 legal conclusion. Assumes facts not in evidence.

22 Q. BY MS. LIVELY: Go ahead.

23 A. Yeah, I did not recall it at the time.

24 Q. What do you mean, you didn't recall at the
25 time?



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1 A. I did not remember. It's been for a
2 while.

3 Q. Wouldn't you agree, Mr. Tran, that if you
4 thought Wells Fargo were retaliating against you for
5 reporting unlawful conduct with regard to the
6 missing customer loan documents, you would have told
7 somebody at HR about that?

8 MS. STEPHENSON: Objection calls for
9 speculation. Calls for a legal conclusion. Assumes
10 facts not in evidence.

11 Q. BY MS. LIVELY: Go ahead.

12 A. Yeah, I did not remember. I would discuss
13 with Peter in the management.

14 Q. Well, I understand that, Mr. Tran.

15 But wouldn't you agree that you talked to
16 human resources several times in 2014 about
17 complaints that you were having with your
18 management? Would you agree with that?

19 A. Yeah, Peter and Kim told me and Alan Rose,
20 I would discuss about the issue in the e-mail, and
21 they told me, "This is handled by the senior
22 management. It's not your concerns." So he told me
23 to do what? "Follow your management direction."

24 Q. Okay. And I need you to listen to my
25 question and not answer the question that you want



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1 MS. LIVELY: Yes.

2 THE WITNESS: Thank you.

3 Q. BY MS. LIVELY: As you sit here today, do
4 you have any recollection of telling anyone in human
5 resources that you thought you were being retaliated
6 against because you had reported unlawful activity
7 with regard to missing loan documents?

8 MS. STEPHENSON: Objection. Calls for
9 legal conclusion.

10 THE WITNESS: I did not remember. I'm
11 sorry.

12 Q. BY MS. LIVELY: That's okay.

13 So you're saying you don't remember
14 whether you reported something to human resources
15 about unlawful activity with regard to missing loan
16 documents. Is that your testimony?

17 A. I did not remember, yes.

18 Q. Do you have any information -- Strike
19 that.

20 As you sit here today, do you have a
21 recollection of complaining to Alan Rose about the
22 issue related to missing customer loan documents?

23 A. Yes.

24 Q. What do you recall about that?

25 A. I was e-mail Alan, got the permission to



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1 talk to Alan. And his secretary e-mail me back, set
2 up the time. I don't remember exactly what time. I
3 talked to Alan for a few time. I brought my concern
4 what happened, how Peter treated me. I would
5 mention about CMP and I would mention about e-mail
6 and I said, "I do not agree, the company tell me to
7 deceive the customer and lie to the customer." And
8 Alan said, "This is something, it not your concern.
9 So we handle it."

10 Q. So it's your testimony that you complained
11 to Alan Rose that the company was deceiving
12 customers and lying to the customers?

13 A. Based on the e-mail that was sent out,
14 yes.

15 Q. That's on an e-mail that he sent out?

16 A. I think Carl or Peter sent it out. I
17 asked Peter, and Peter said it came from the senior
18 management.

19 Q. Okay. I'm trying to get this straight.

20 Are you testifying that you told Alan Rose
21 that Wells Fargo was deceiving and lying to its
22 customers?

23 A. Yes, in his office.

24 Q. Okay. When did you tell him that?

25 A. I don't remember, but in his office.



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1 Q. Was anyone else present?

2 A. Only me and Alan.

3 Q. And was Alan angry with you when you told
4 him that?

5 A. No.

6 Q. Did you get along with Alan?

7 A. We don't talk much, because he's a senior
8 management.

9 Q. Do you have any reason to believe that
10 Alan is not a truthful person?

11 A. It's possible, yes.

12 Q. Based on what?

13 A. Based on what he told me. I was brought
14 my concern to Alan about the e-mail, the phone call
15 I took from the customer. I would mention about a
16 document, and he told me this is something I should
17 not concern. He said, "Put that on the side," yes,
18 and he said, "Focus on your job."

19 I would mention where Peter was harassing
20 me, he threatened me, yelling; and he said he would
21 talk to Peter in his office at that time.

22 Q. How does that make Alan not a truthful
23 person?

24 A. He said, when he come back from vacation,
25 because he took a vacation, then he will discuss



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1 A. Yes.

2 Q. That's your handwriting; correct?

3 A. Yes.

4 Q. Why were you dating this note?

5 A. I'm not sure. I don't remember. This is
6 2014. Yeah, I did not remember.

7 Q. Did you white out the date that the doctor
8 had originally put on the note?

9 A. No date on this -- on this document.

10 Q. You're saying that there was never a date
11 on this document?

12 A. Yeah, I don't see any date.

13 Q. Did the doctor give you this document on
14 06/26/2014?

15 A. I do not remember. This has been for a
16 while.

17 Q. Is there anything that would help you
18 recall what day the doctor gave you this document?

19 A. I did not remember. Yeah, I don't
20 remember what days are.

21 (Exhibit 71 marked.)

22 Q. BY MS. LIVELY: Mr. Tran, the court
23 reporter has handed you what's been marked as
24 Exhibit 71, which appears to be a series of e-mails
25 between you and Glenda Longren on September 12th,



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1 2014.

2 A. Yes.

3 Q. Do you recognize these e-mails?

4 A. Yes, I did.

5 Q. Okay. And if you look at the e-mail on

6 the top, the most recent one from Ms. Longren to

7 you, dated September 12th, 2014, in the large

8 paragraph there, Ms. Longren states: "Your

9 attendance was not impacted by your missed days."

10 Do you see that?

11 A. Yes. That in the e-mail.

12 Q. Does that refresh your recollection that

13 Ms. Longren told you that missing June 26th and 27th

14 was not counted against you?

15 A. She has (indiscernible) to show it to me.

16 Q. And then in the second sentence, she says:
17 "This memo is also not part of the corrective action
18 process."

19 Do you see that?

20 A. Yes.

21 Q. And do you understand that Ms. Longren was
22 telling you that the memorandum of understanding was
23 not part of the corrective action process?

24 A. I read e-mail, but I'm not sure I
25 understand at that time.



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1 Q. Did you ask her for clarification?

2 A. No, I did not.

3 Q. Do you have any basis to dispute

4 Ms. Longren's statement that the memorandum of

5 understanding was not part of the correction --

6 corrective action process?

7 A. That what she wrote in e-mail.

8 Q. Right. Do you have any basis to dispute

9 that?

10 A. I'm sorry. Say one more time.

11 Q. Do you have any basis to dispute that

12 Ms. Longren is telling you the truth here?

13 A. No, I did not dispute it.

14 Q. And go ahead and read through the e-mail
15 that you sent -- not out loud; to yourself -- the
16 e-mail that you sent to Ms. Longren on September
17 12th, 2014, at 11:45 a.m.

18 A. At 11:45?

19 Q. Uh-huh. The middle one.

20 A. "Good morning."

21 Q. No, you don't need to read it out loud --

22 A. Oh, I'm sorry.

23 Q. -- Mr. Tran. I'm just saying to review it
24 because I want to ask you a question about it.

25 A. Oh, just review it?



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1 Ms. Longren on August 27th, 2014, at 1:56 p.m. Do
2 you see that?

3 A. Yes.

4 Q. And did you attempt to be honest and
5 accurate in sending this e-mail to Ms. Longren?

6 A. May I have to read it?

7 Q. Yes.

8 A. Yes. That exactly Peter said in the
9 conference room.

10 Q. What you're -- What you're telling Glenda
11 is what Peter said in the conference room?

12 A. That what Peter told me, yes.

13 Q. Okay. But you -- And would you agree that
14 the e-mail that you sent to Glenda on August 27th
15 was sent when these events were fresh in your mind?

16 A. I'm sorry. Are you talking about this
17 e-mail or...

18 Q. Yeah. I'm just saying, did you make the
19 e-mail when the events you're discussing are fresh
20 in your mind?

21 A. Yes.

22 Q. Okay. In the second paragraph, you write:

23 "I explain to Peter that the FTO checklist from the

24 CMP monitor, it change every month. That make is

25 very difficulties to remember everything."



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1 Was that a true statement?

2 A. It is.

3 Q. Did you feel like it was difficult to
4 remember everything?

5 A. Yeah, this has been for a while. I did
6 not recall this.

7 O. Well, do you recall having difficulty,

8 when you were a HEMASS agent, keeping up with

9 remembering everything because the checklist changed

10 regularly?

11 A. The checklist, it changing regularly, yes.

12 O. And do you recall having difficulty

13 keeping up with those changes, like you said here in

14 Exhibit 75?

15 A. It's possible, yes.

16 Q. And then the next sentence says: "I bring
17 my concern to Peter every month when I have call
18 coaching."

19 Was that an accurate statement? Did you
20 have call coaching with Peter every month?

21 A. Yes.

22 Q. And then if you go down to the next
23 paragraph, the next big paragraph, the second
24 sentence says: "Peter also ask me that you have an
25 Asian accent that is very difficult for you to talk



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1 time I didn't tell her.

2 Q. BY MS. LIVELY: Is the reason that you
3 didn't tell her is because it didn't happen?

4 MS. STEPHENSON: Objection.
5 Argumentative.

6 THE WITNESS: It is happen.

7 Q. BY MS. LIVELY: But you just chose not to
8 tell human resources. Is that your testimony?

9 A. Possible, yes.

10 MS. STEPHENSON: Objection. Assumes facts
11 not in evidence.

12 Q. BY MS. LIVELY: All right. If you go on
13 to the next sentence, it says: "Peter ask me, do
14 you want to look for another job without being on
15 the phone? I told Peter that I love my job here in
16 this department and I enjoyed to help our customer
17 with our home equity service. I am sure this is
18 discrimination and retaliation I got from Peter and
19 possible from the up manager because I misses two
20 days of training class for customer loyalty course
21 to stay home and take care of my illness child."

22 So you're telling -- In that sentence,
23 you're telling Ms. Longren that you are sure Peter
24 is retaliating against you because you missed the
25 CCL training; correct?



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1 A. Yes.

2 Q. Not because you reported concealing lost
3 documents from customers; correct?

4 A. For this point in time, yes.

5 Q. If you thought Peter was retaliating
6 against you for concealing lost documents, why
7 didn't you say that to Ms. Longren on August 27th
8 when you were making your other complaints?

9 MS. STEPHENSON: Objection. Calls for
10 speculation.

11 THE WITNESS: Alan instructed me I
12 shouldn't say anything to the human resources
13 because wasting time and money for the company.

14 Q. BY MS. LIVELY: But you hadn't met
15 Mr. Rose at the time that you prepared Exhibit 75.
16 That was the next day.

17 A. Yeah. This e-mail is a different issue,
18 though.

19 Q. Well, so would it be fair, then, to say
20 that you didn't think that what's being addressed
21 here, the CMP result, was a result of you reporting
22 unlawful conduct with regard to concealed customer
23 documents?

24 MS. STEPHENSON: Objection. Calls for
25 legal conclusion.



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1 Vietnamese? Do you not know whether your race is
2 Vietnamese?

3 A. I am Vietnamese.

4 Q. Are you aware that Peter LeDonne is half
5 Asian?

6 A. I did not know.

7 Q. Knowing that Mr. LeDonne is half Asian,
8 can you think of any reason why he would want to
9 discriminate against other people who are Asian?

10 MS. STEPHENSON: Objection. Calls for
11 speculation.

12 THE WITNESS: I did not know.

13 Q. BY MS. LIVELY: Who at Wells Fargo do you
14 claim discriminated against you because of your race
15 or national origin?

16 A. Can you repeat that question one more
17 time, please.

18 Q. Who at Wells Fargo do you claim
19 discriminated -- discriminated against you because
20 of your race or national origin?

21 A. I'm not sure about that, but I know I was
22 complain Peter would tell me I have an Asian accent.

23 Q. Okay. Did anyone other than Peter LeDonne
24 make any comments to you, that you felt were
25 negative with regard to being Asian or Vietnamese?



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1 A. It not that I know of.

2 Q. I would like you to tell me each comment

3 that Mr. LeDonne made, that you think was negative

4 with regard to your race or national origin; and,

5 like a shopping list, I want to go through each one

6 that you remember him making.

7 I don't care if it's in order, but what do

8 you remember Mr. LeDonne saying, that you thought

9 was negative based on your race or national origin?

10 A. Mr. LeDonne always say I'm Asian -- "You

11 have a damn Asian accent." That the only thing I

12 know of.

13 Q. "A damn Asian accent"?

14 A. Yes.

15 Q. And how many times did he say it?

16 A. Only one.

17 Q. And do you remember what -- what the
18 situation was that he said that, like what was going
19 on?

20 A. I didn't remember at this point.

21 Q. Is there anything that you could look at
22 that would help you remember what was going on when
23 he said that?

24 A. And he would get angry, but I did not
25 recall what exactly what it is.



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1 Q. When -- When Mr. LeDonne would get angry,
2 how did you know he was angry?

3 A. His eye -- His eye getting really big.

4 Q. His eyes?

5 A. His eyeball, yeah.

6 Q. Okay.

7 A. And face.

8 Q. Did you tell Mr. LeDonne he looked like
9 Lionel Richie?

10 A. I don't remember.

11 Q. Other than the one time where Mr. LeDonne
12 referenced "your damn Asian accent," were there any
13 other comments that he made, that you thought were
14 negative with regard to your race or national
15 origin?

16 A. That's only one time he would -- he was
17 saying, only that one time.

18 Q. Okay. This is my only chance to get to
19 ask you questions.

20 A. Okay.

21 Q. So I just want to make sure that I have
22 everything -- everything that Mr. LeDonne said, that
23 you believed was improper or negative that he said
24 to you about your national origin.

25 I have the "damn Asian accent" that he



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1 said one time. Is there anything else that he said?

2 A. No.

3 Q. Do you know whether there were any other
4 HEMASS customer service agents who were Asian?

5 A. I did not recall.

6 Q. And do you claim that Wells Fargo took any
7 negative actions against you because of your race or
8 national origin?

9 A. Possible, yes.

10 Q. Okay. What negative actions do you think
11 Wells Fargo took against you because of your race or
12 national origin?

13 A. Peter told me that I have "the damn Asian
14 accent," just mean, "You are" -- he mean like -- and
15 he's the management, he's leadership; and he would
16 get angry, yelling, and he make his point really
17 clear: "You have a damn Asian accent." That mean
18 my original nationality is Vietnamese. That meant
19 he make me feel that is a discrimination against my
20 origin or where I came from.

21 Q. Okay. Other than Mr. LeDonne getting
22 angry and yelling and referring to "your damn Asian
23 accent," did Mr. LeDonne or anyone at Wells Fargo
24 take any actions against you as an employee that you
25 thought were based on your race or national origin?



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1 A. I don't understand the question. Can you
2 explain it.

3 Q. Well, do you think Wells Fargo -- anyone
4 at Wells Fargo did something bad to you, took some
5 action, some negative action against you, because of
6 your race or national origin?

7 MS. STEPHENSON: Objection. Calls for
8 speculation.

9 THE WITNESS: That something I do not know
10 what people thinking. I'm sorry.

11 Q. BY MS. LIVELY: Well, you're the one who
12 has a claim in this lawsuit for race discrimination,
13 so I'm entitled to find out from you how you think
14 you were discriminated against because of your race.
15 So that's what I'm trying to find out. Okay?

16 What -- What things did Wells Fargo do to
17 you, what negative things did Wells Fargo do to you,
18 that you think happened because of your race or
19 national origin, other than Peter getting angry at
20 you and saying you have a "damn Asian accent"?
21 Anything else?

22 A. Anything else, I do not recall.

23 Q. Is there anything that you could look at
24 that would help you recall?

25 A. That something I do not know.



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1 Q. So if, at trial, you get asked to testify,
2 "Mr. Tran, how did Wells Fargo discriminate against
3 you based upon your race?" what are you going to
4 say?

5 MS. STEPHENSON: Objection. Calls for
6 speculation.

7 Q. BY MS. LIVELY: Go ahead.

8 A. I will say, based on what Peter told me,
9 "You have a damn Asian accent," that is meaning I
10 came from -- "You are Vietnamese. You have your
11 damn accent. I couldn't understand you."

12 Q. Anything else?

13 A. (Indiscernible.)

14 Q. Did you ever hear Mr. LeDonne make any
15 negative comments about Asians or people from
16 Vietnam, that were directed at somebody other than
17 you?

18 A. Not that I recall.

19 Q. Did anyone, maybe one of your co-workers,
20 tell you that they heard Mr. LeDonne make negative
21 comments about Asians or Vietnamese people?

22 A. I did not recall that.

23 Q. Is there anything that you could look at
24 that would help you recall that?

25 A. Yeah, I do not know.



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1 Q. Did anyone at Wells Fargo mention your
2 national origin or being Vietnamese, in connection
3 with issuing you the July memorandum of
4 understanding?

5 A. That, I did not remember.

6 Q. Is there anything that would help you
7 remember?

8 A. I did not remember, not at the time.

9 Q. Was your Asian accent discussed at all in
10 connection with the memorandum of understanding?

11 A. That something I did not recall.

12 Q. Did anyone ever tell you that your
13 national origin or race was a factor that Wells
14 Fargo considered in deciding to issue you the
15 memorandum of understanding?

16 A. Can you repeat the question again,
17 Counsel.

18 Q. Sure. Did anyone ever tell you that your
19 race or national origin was a factor that Wells
20 Fargo considered in issuing you the memorandum of
21 understanding?

22 A. That's -- I did not recall that.

23 Q. And is there anything that you could look
24 at that would help you recall?

25 A. I don't remember.



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1 Q. Do you have any information, from any
2 source, that your national origin or race was a
3 factor that Wells Fargo considered in issuing your
4 memorandum of understanding?

5 A. Can you repeat it one more time. I'm
6 sorry.

7 Q. It's okay. Do you have any information,
8 from any source, that your national origin or race
9 was a factor that Wells Fargo considered in issuing
10 you the memorandum of understanding?

11 A. That, I did not know.

12 Q. I'm sorry. What did you say?

13 A. I did not know.

14 Q. Okay. You're very soft-spoken. Sometimes
15 it's hard to hear.

16 A. I'm sorry.

17 Q. It's okay. Did anyone at Wells Fargo
18 mention your race or national origin when you were
19 issued the August 26th informal warning for CMP
20 results?

21 A. Not that I know of.

22 Q. Did anyone mention your Asian accent in
23 connection with the August 26th, 2014, informal
24 warning for CMP results?

25 A. That something I did not remember.



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1 Q. Is there anything that you could look at
2 that would help you remember?

3 A. It's been for a while, so I'm sorry.

4 Q. Is there anything you can think of, as you
5 sit here today, that would help you remember?

6 A. Not at this point.

7 Q. Did anyone ever tell you that your
8 national origin or race was a factor that Wells
9 Fargo considered in issuing you the August 26th
10 informal warning?

11 A. I'm not sure about that.

12 Q. Do you have any information, from any
13 source, that your national origin or race was a
14 factor that Wells Fargo considered in issuing you
15 the August 26th, 2014, informal warning?

16 A. That something I did not remember. It
17 been for a long time.

18 Q. Okay. And is there anything that you
19 could look at that would help you remember?

20 A. I don't remember at the time.

21 Q. And what about the September 23rd, 2014,
22 informal warning? Did anyone mention your race or
23 national origin when they delivered that warning to
24 you?

25 A. I did not remember.



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1 Q. And is there anything that you could look
2 at that would help you remember?

3 A. It been for a long time, so...

4 Q. Nothing you can think of?

5 A. Yeah, nothing I can think of at the time.
6 I'm sorry.

7 Q. It's okay. Did anyone mention your Asian
8 action in connection with the September 23rd, 2014,
9 informal warning?

10 A. That something I did not recall it.

11 Q. Did anyone tell you that your race or
12 national origin was a factor in Wells Fargo's
13 decision to issue you the September 23rd, 2014,
14 informal warning?

15 A. That's -- Not that I know of. I do not
16 recall that.

17 Q. Do you have any information, from any
18 source, that your race or national origin was a
19 factor that Wells Fargo considered in issuing the
20 September 23rd, 2014, informal warning?

21 A. I did not recall.

22 Q. Do you have any personal knowledge of what
23 factors Wells Fargo considered in deciding to issue
24 you the September 23rd, 2014, informal warning?

25 A. It's been for a while now, so it's hard

